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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,357	10/06/2003	Kazutaka Yamamoto	R2180.0059/P059-E	1792
24998	7590	02/10/2006	EXAMINER	
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 2101 L Street, NW Washington, DC 20037			HINDI, NABIL Z	
			ART UNIT	PAPER NUMBER
			2656	

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/678,357

Applicant(s)

YAMAMOTO, KAZUTAKA

Examiner

NABIL Z. HINDI

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 40-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

In response to applicant's RCE filed on 02/03/06. The following action is taken:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 40-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 06-162511 in view of 08-46907.

The primary reference discloses an optical disk recording apparatus comprising: an input data 10, 12, and 14, transferring the input data to an input buffer 20, 26, transferring the data to an encoder CD-ROM within the writing circuit 32, wherein when an interruption of data reading occur due to a track jump, the encoded data within the writing circuit 32 is maintained in RAM 34. However the reference does not disclose the monitoring of the memory being less than a threshold value. The secondary reference disclose the use of a memory monitoring circuit in order to determine the under/overflow within the memory for the purpose of maintaining a certain data level within the memory. It would have been obvious to one skilled in the art at the time the invention was made to use the teachings of the primary reference and modify the secondary reference. Such modification of monitoring the memory data level is a logical engineering capability in order to maintain predetermined data amount in the memory for the purpose of data continuity during an interruption. Thus one of ordinary skill in the

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art would have been motivated to use the teachings of the secondary reference for the purpose of maintaining an uninterrupted data flow.

With respect to the limitation of claim 42. the reference discloses two levels under/over flow which are obviously not equal.

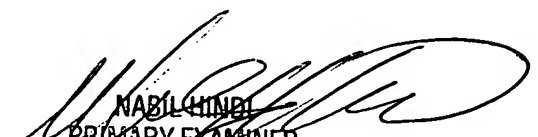
With respect to the limitation of claim 43 and 44. the primary reference shows an interleaving of data performed in the data recording on the recordable CD-ROM 32 which uses a CIRC encoder.

With respect to the limitation of claims 45 and 46 see element 24.

With respect to the limitations of claims 47 and 48 see elements 10, 12 and 14.

Applicant's arguments with respect to claims 40-49 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to NABIL Z. HINDI at telephone number (571) 272-7618.

  
NABIL HINDI  
PRIMARY EXAMINER  
GROUP 350  
2256